

82-171-I

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STATE HOUSE ANNEX

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April 17, 1984

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Mr. Earl M. Sweeney  
Deputy Commissioner  
Department of Safety  
Hazen Drive  
Concord, New Hampshire 03301

Re: Applicability of RSA Ch. 105-A Training  
Requirements to Safety Inspectors of  
the Department of Safety

Gentlemen:

Following our opinion to the Police Standards and Training Council dated March 1, 1983 on the above subject, the Department of Safety requested us to reconsider the matter in light of their desire to obtain in-service training for safety inspectors who have been granted certain police powers under RSA 106-A:4-a (Supp. 1983). Upon review of the applicable statutes and their legislative history, we believe it is appropriate to revise our previous advice and this opinion therefore supercedes my opinion dated March 1, 1983. It is our view that such safety inspectors do meet the current definition of "police officer" contained in RSA 105-A:2, I (Supp. 1983) and are therefore subject to the training and certification requirements of that chapter.

RSA 105-A:2, I (Supp. 1983) defines "police officer" as

any appointed or elected employee of a  
police department ... which is administered  
by the state or any other political  
subdivision thereof who is responsible for  
the prevention, detection or prosecution of



crime or the enforcement of the penal,  
traffic or highway laws of this state or any  
of its political subdivisions.

Under RSA 105-A:5, I, all appointed "police officers" must meet minimum training requirements set by the Council.

Although we have previously advised in separate opinions dated March 17, 1980 and March 1, 1983 that neither boat inspectors nor safety inspectors of the Department of Safety are "appointed employees of a police department," it is our opinion that this view is incorrect. Although the term "police department" is not defined in RSA Ch. 105, Ch. 105-A or Ch. 106-A, safety inspectors are clearly full-time employees of the Department of Safety who exercise certain police powers, and should therefore be subject to training requirements if they otherwise meet the criteria for "police officers."

The amendment to RSA Ch. 105-A in 1979 was intended to make its training requirements applicable to part-time officers and to otherwise expand the scope of its coverage. See 1979 House Journal at 478. Accordingly, although safety inspectors are not responsible for the prevention, detection or prosecution of crime generally, they clearly are responsible pursuant to RSA 106-A:4-a, I and II for the enforcement of the "traffic or highway laws of this state," and thus must be considered "police officers" within the meaning of RSA 105-A:2, I (Supp. 1983). This view is supported by the fact that a specific exemption from the training requirements was added at the same time for "a police officer who is unarmed and has no powers of arrest." RSA 105-A:4, I (Supp. 1983). Safety inspectors do not fall within this exemption because they have specific powers of arrest.

Although no question has presently been raised as to the status of boat inspectors, it appears that they may continue to fall outside the definition of "police officer" as applied by you because they do not enforce "the penal, traffic or highway laws of this state" and because they are purely seasonal employees who work approximately three months of each year. As set forth above, however, safety inspectors of the Department of Safety are to be considered "police officers" subject to your training and certification requirements.

If you have further questions on this subject, please let me know.

Very truly yours,

*Betsy S. Westgate*

Betsy S. Westgate  
Assistant Attorney General  
Division of Legal Counsel

BSW:ab

cc: Mr. Richard M. Flynn, Commissioner  
#82-171-I (Supp.)